

Planning Commission Public Hearing
Staff Report
May 17, 2007



Case:	1-01-07 & 1-08-92
Project Name:	Alley Closure Request
Location:	Section of unnamed Alley located between Bates and Carol Avenue
Applicant:	Michael Gregory of Three R Landlord Inc.
Representative:	Michael F. Tigue of Middleton Ruetlinger
Project Size/Area:	.07 Acres
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Doris Heyman, Associate Planner

Request

The applicant request to close a section of an unnamed 22.5 wide alley from its southern intersection with Bates Avenue, located 655.5 feet west of Carol Avenue, running 156.08 feet south, containing .07 acre and being in Louisville Metro.

Staff Recommendation

Staff recommends APPROVAL due to compliance with:

Case Summary/Background

Summary

This section of alley was reviewed and approved by the Planning Commission in 1992 under Docket No. 1-08-92. The proposed alley closure was processed, recommended approval and forwarded to Fiscal Court in 1992. The closure is related to an approved change in zoning request, Docket No. 9-25-95 to a C-2 zoning district. The closure was placed in abeyance by the former Fiscal Court, to wait for the outcome of the zoning change. The zoning change was approved and forwarded to Fiscal Court circa 1995-96, the street closure was not processed with the zoning case.

Site Context

The property is in the Suburban Marketplace Form District and is zoned C-2. The section of the alley proposed for closure is surrounded n the east by single family homes on all other sides by commercial properties. The alley is currently

paved and appears as incorporated into the parking lot for 7701 Preston Highway (Hooters) since the mid 1990s.

Land Use / Zoning District / Form District

	Land Use	Zoning Form District	
Subject	SECTION OF ALLEY FOR PROPOSED FOR CLOSURE	C-2	Suburban Marketplace
Existing	Commercial (Restaurant)	C-2	Suburban Marketplace
Surrounding			
North	Commercial	C-2	Suburban Marketplace
South	Commercial	C-2	Suburban Marketplace
East	Existing Single Family Residential	R-6	Neighborhood
West	Commercial	C-2	Suburban Marketplace

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

Staff Findings

Relationship to Neighborhood, Small Area, Corridor or Other Plan(s)

None

Relationship to Comprehensive Plan

Cornerstone 2020 - Policies Addressed in Plan

Policy	Description of policy	Comments
F2.3	Access & Circulation – Encourage the development of corridors that offer a variety of transportation choices for users.	Staff finds that there is compatibility demonstrated due To the public transit routes on Preston Highway
F4.5	Suburban Marketplace – Ensure that parking facilities are adequate and convenient for motorist but do not adversely impact pedestrian use and the aesthetic quality of the corridor	Staff finds the proposed closure adequately provides Complies with the parking element by providing off-street parking to reserve the neighborhood parking.
Mobility/Trans	Guideline 6 Access to Surrounding Land Uses	Apparent Compliance by existing alternative access

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1. Community Form

a. Compatibility

The proposed closure appears to be compatible with surrounding single – family residential uses. The proposed closure is compliant with the goals of the Suburban Workforce Form, which is significantly buffered from the off – street parking. The neighborhood has adjusted to the closure of the alley and used alternative routes for secondary ingress and egress.

2. Mobility/Transportation

a. Circulation & Transportation Facility Design

Access for the adjoining properties is achieved through the section of alley that is open

Standard of Review

Criteria for granting the proposed closure:

1. The considerations for closure of a street are: Adequate Public Facilities: No closure of any public right of way shall be approved where an identified current or future need for the facility exists.
2. Where existing or proposed utilities are located within the right of way to be closed, it shall be retained as an easement or alternative locations shall be provided for the utilities.
3. Cost for Improvement – The cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities.
4. Comprehensive Plan – The extent to which the proposed closure is in compliance with the Goals, Objectives and Plan Elements of the Comprehensive Plan.
5. Other Matters- Any other matter which the Planning Commission may deem relevant and appropriate.

Attached Documents / Information

1. Site location map
2. Land Development & Transportation Minutes

Standard Conditions of Approval

1. The closure shall be in accordance with the approved closure plat, and agreed upon Conditions of Approval unless amended pursuant by the Planning Commission.
2. All necessary easements are granted or measures must be taken that are requested by an agency, and that no construction of permanent structures shall be permitted within the easement area, and that such reservation and prohibition also be included in any litigation concerning the street closing.

All conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

Notification

Date Sent	Description	Recipients
03/22/07	Notice of Public Hearing mailed	Adjoining Property Owners
04/19/07	Notice of Legal Ad	General Public
04/27/07	Sign posted on subject property	General Public

Proposed Closure of Section of Alley behind 7701 Preston Highway



Proposed Closure of Section of Alley behind 7701 Preston Highway





Case:	1-01-07, Street Closure Request
Location:	Section of Unnamed Alley between Bates and Carol Streets
Jurisdiction:	Louisville Metro
Council District:	24- Madonna Flood
Applicant:	Michael Gregory of Three R Land lord Inc.
Attorney:	Michael Tigue of Middleton Ruetlinger
Case Manager:	Doris J. Heyman, Associate Planner

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Staff Recommendation

PUBLIC HEARING REQUEST FOR MAY 17, 2007 required under section 6.3.3 F-4 due to submittal of less than 100% of the signed, notarized, consent of adjoining property owners from the nearest intersecting street. Metropolitan Sewer District has requested and received an easement.

STAFF COMMENTS:

1. 100% of the adjoining property owners signed, notarized consent to the proposed street closure **has not** been submitted. Under Chapter 6 Part 3 Section 3-F, a public hearing will be required.
2. The applicant states the reason for the request is as follows: "A segment of a public alley runs through the rear parking lot of the property. The alley way's location bi-sects the rear parking and separates a significant number of parking spaces from the main parking area and business establishment. As such, the alley way's present configuration creates a potentially hazardous situation."
3. This section of alley was reviewed and approved by the Planning Commission in 1992 under Docket No. 1-08-92. The proposed alley closure was processed, recommended approval and forwarded to Fiscal Court in 1992. The closure is related to the change in zoning request, Docket No. 9-25-95 to a C-2 zoning district. The closure was placed in abeyance, waiting for the outcome of the zoning change. The zoning change was approved and forwarded to Fiscal Court circa 1995-96, the street closure was not processed with the zoning case.

AGENCY COMMENTS:

Okolona Fire Protection District – No objection

Air Pollution Control District - No objection

E-911 - No objection

BellSouth- No objection

MSD – No objection

Louisville Metro Health Department- No objection

Louisville Gas & Electric- No objection

Planning & Design Services Addressing – No objection

Louisville Water Company – No objection; **on condition easement is granted**

Louisville Metro Public Works – No objection

Louisville Metro Design Team – No objection

Historic Preservation - No objection-does not affect any known historic or cultural resources

TARC- No objection

<i>Policy</i>	<i>Description of Policy</i>	<i>Comments</i>
C2.4	Access and Circulation- Connected Network of Streets/Street Pattern	Staff finds apparent compliance alley paved and used as closed.
Guideline 6 Mobility & Transportation	Access to surrounding land uses	Staff finds rear access to several properties on the west will be unchanged due to the existing pavement consolidating the alley into the adjoining properties.

Considerations for Approval of a Street or Alley Closing

6. The considerations for closure of a street are: Adequate Public Facilities: Whether and the extent to which the request would result in demand on public facilities and services (both on site and off-site), exceeding the capacity or interfering with the function of such facilities and services, existing or programmed, including transportation, utilities, drainage, recreation, education, emergency services, and similar necessary facilities and services. No closure of any public right of way shall be approved where an identified current or future need for the facility exists.
7. Where existing or proposed utilities are located within the right of way to be closed, it shall be retained as an easement or alternative locations shall be provided for the utilities.
8. Cost for Improvement – The cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of a proposed project, including cost of improvements to adjacent rights-of-way or relocation of utilities.
9. Comprehensive Plan – The extent to which the proposed closure is in compliance with the Goals, Objectives and Plan Elements of the Comprehensive Plan.
10. Other Matters- Any other matter which the Planning Commission may deem relevant and appropriate.

Proposed Condition of Approval

1. The applicant must submit a deed of consolidation to Planning Commission Staff for review by Legal Counsel prior to recording any ordinance or deed.

Standard Conditions of Approval

1. The closure shall be in accordance with the approved closure plat and agreed upon conditions of approval unless amended by the Planning Commission.
2. All necessary easements are granted or measures must be taken that are requested by an agency, and that no construction of permanent structures shall be permitted within the easement area, and that such reservation and prohibition also be included in any litigation concerning the street closing.
3. The cost for a street or alley closing, or abandonment of any easement or land dedicated to the use of the public shall be paid by the applicant or developer of proposed project, including cost of improvements to adjacent rights-of-way and/or relocation of utilities within an existing easement

All conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this street closure.

Name

Title